

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KIARA MARIE JOHNSON,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARVIN L. JOHNSON,

Respondent-Appellant.

UNPUBLISHED

November 17, 2009

No. 292545

Oakland Circuit Court

Family Division

LC No. 08-753929-NA

Before: Hoekstra, P.J., and Murray and M. J. Kelly, JJ.

MURRAY, J. (*concurring*).

I concur with the majority opinion reversing the trial court's order terminating respondent's parental rights to the minor child, but only because the trial court's exclusive reason for exercising jurisdiction did not come within one of the statutory grounds under MCL 712A.2(b)(1) and (2). That statute provides:

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parent, guardian, or other custodian, or who is without proper custody or guardianship

* * *

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent guardian adult, or other custodian, is an unfit place for the juvenile to live in.

The trial court concluded that jurisdiction existed under § 2(b)(1) and (2) because respondent "father will not be around for a significant period of this child's life" However, that

rationale does not appear to address any of the statutory criteria for exercising jurisdiction and, absent any other finding that falls within the statute, the trial court was precluded from proceeding further against respondent. See *In re Ramsey*, 229 Mich App 310, 314; 581 NW2d 291 (1998).

/s/ Christopher M. Murray